

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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ALEXANDER CALDERON, et al.,

Plaintiffs,

- against -

ABBOTT LABORATORIES, et al.,

Defendants.
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ORDER

CV 05-0994 (CBA) (JO)

JAMES ORENSTEIN, Magistrate Judge:

On April 25, 2006, I ordered as follows: "Counsel will notify me by Friday, April 28, 2006, as to whether the parties agree that the matter described above should be litigated at this stage of the proceedings. If counsel agree that it should, they shall propose a briefing schedule for the motion. If the parties are not in agreement, each party should submit a letter explaining its position as to whether the court can and should set a deadline *sua sponte* for the commencement of such a motion." Docket Entry 23. After initially consenting to such motion practice, it now appears that the defendants have withdrawn their consent to a dispositive motion that is strictly limited to the issue described above. Accordingly, the defendants shall file a letter no later than May 26, 2006, explaining their position as to whether the court can and should set a deadline *sua sponte* for the commencement of such a motion in the absence of consent.

SO ORDERED.

Dated: Brooklyn, New York
May 23, 2006

/s/ James Orenstein
JAMES ORENSTEIN
U.S. Magistrate Judge